

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1162

Introduced by Assembly Member Chesbro
(Coauthor: Senator Berryhill)

February 18, 2011

An act to amend Sections 2583, 12000, and 12154 of, and to add Sections 12013.3 and 12013.5 to, the Fish and Game Code, relating to wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 1162, as amended, Chesbro. Wildlife: poaching.

(1) Existing law regulates the taking or possession of birds, mammals, fish, amphibians, and reptiles. Existing law relating to the control of illegally taken fish and wildlife authorizes the imposition of a civil penalty, not to exceed \$10,000, on any person who violates the Fish and Game Code or any regulation adopted to carry out that code, and, with the exercise of due care, should have known that the specified animals were taken, possessed, transported, imported, received, purchased, acquired, or sold in violation of, or in a manner unlawful under, existing law. Existing law requires those civil penalties to be deposited in the Fish and Game Preservation Fund.

This bill would increase the maximum civil penalty for a violation of the above provisions from \$10,000 to \$40,000.

(2) Existing law provides that, except as expressly provided otherwise in the Fish and Game Code, any violation of that code, or of any rule, regulation, or order made or adopted under that code, is a misdemeanor.

This bill would make a technical, nonsubstantive change to that provision.

(3) Existing law provides that any person who illegally takes, possesses, imports, exports, sells, purchases, barter, trades, or exchanges any amphibian, bird, fish, mammal, or reptile, or part thereof, for profit or personal gain, is guilty of a misdemeanor punishable by a fine of not less than \$5,000, nor more than \$40,000, or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. Existing law authorizes the department, upon a conviction of certain violations, to suspend or permanently revoke a person's hunting or sport fishing license or permit privileges and authorizes the seizure or forfeiture of any device or apparatus used in the commission of specified offenses.

This bill would subject any person who knowingly and illegally takes a trophy deer, elk, antelope, wild turkey, or bighorn sheep in specified ways to a fine of not less than \$5,000, nor more than \$40,000, or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. The bill would subject any person who uses a signal-emitting device, as defined, in conjunction with the take of bear for the purpose of selling or trafficking in bear parts to a fine of ~~10 times the market value of the bear parts, or \$10,000, whichever is greater~~ *\$10,000 per bear part*. The bill would require the Fish and Game Commission to adopt regulations to implement these provisions, and would require all revenue from fines imposed pursuant to these provisions to be deposited in the Big Game Management Account or the Upland Game Bird Account, based on the violation. The bill would include those offenses in those suspension, revocation, and forfeiture provisions. By creating new crimes, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2583 of the Fish and Game Code is
2 amended to read:

3 2583. (a) Except as provided in subdivision (b), the department
4 may impose a civil penalty in accordance with this chapter on any
5 person who violates this code or any regulation adopted to carry
6 out this code, and, with the exercise of due care, should have
7 known that the birds, mammals, amphibians, reptiles, or fish, or
8 the endangered or threatened species, or the fully protected birds,
9 mammals, or fish were taken, possessed, transported, imported,
10 received, purchased, acquired, or sold in violation of, or in a
11 manner unlawful under, this code. The civil penalty imposed under
12 this chapter by the department shall not be more than forty
13 thousand dollars (\$40,000) for each bird, mammal, amphibian,
14 reptile, or fish, or for each endangered or threatened species, or
15 each fully protected bird, mammal, or fish unlawfully taken,
16 possessed, transported, imported, received, purchased, acquired,
17 or sold. This civil penalty may be in addition to any other penalty,
18 civil or criminal, provided in this code or otherwise by law.

19 (b) A civil penalty shall not be imposed under this chapter until
20 the guidelines for the imposition of the penalties are adopted by
21 the commission pursuant to Section 500.

22 SEC. 2. Section 12000 of the Fish and Game Code is amended
23 to read:

24 12000. (a) Except as otherwise expressly provided in this code,
25 any violation of this code, or of any rule, regulation, or order made
26 or adopted under this code, is a misdemeanor.

27 (b) Notwithstanding subdivision (a), any person who violates
28 any of the following statutes or regulations is guilty of an infraction
29 punishable by a fine of not less than one hundred dollars (\$100)
30 and not to exceed one thousand dollars (\$1,000), or of a
31 misdemeanor:

32 (1) Section 2009.

33 (2) Subdivision (a) of Section 6596.

34 (3) Section 7149.8.

35 (4) Section 7360.

36 (5) Sections 1.14, 1.17, 1.18, 1.62, 1.63, and 1.74 of Title 14 of
37 the California Code of Regulations.

(6) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.

(7) Sections 27.56 to 30.10, inclusive, of Title 14 of the California Code of Regulations.

(8) Sections 40 to 43, inclusive, of Title 14 of the California Code of Regulations.

(9) Sections 307, 308, and 311 to 313, inclusive, of Title 14 of the California Code of Regulations.

(10) Sections 505, 507 to 510, inclusive, and 550 to 553, inclusive, of Title 14 of the California Code of Regulations.

(11) Sections 630 to 630.5, inclusive, of Title 14 of the California Code of Regulations.

SEC. 3. Section 12013.3 is added to the Fish and Game Code, to read:

12013.3. (a) Any person who knowingly and illegally takes a trophy deer, elk, antelope, bighorn sheep, or wild turkey in any of the following ways shall be subject to a fine of not less than five thousand dollars (\$5,000), nor more than forty thousand dollars (\$40,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment:

(1) Outside the legal season.

(2) With the aid of artificial light.

(3) With the aid of bait.

(4) Results in unnecessary and wanton waste of game.

(b) The commission shall adopt regulations to implement this section, including establishing a trophy designation and monetary value based on the size or related characteristics of deer, elk, antelope, bighorn sheep, and wild turkeys or parts thereof.

(c) All revenue from fines imposed pursuant to this section for deer, elk, antelope, and bighorn sheep violations shall be deposited in the Big Game Management Account established in Section 3953 and shall be used for the big game management purposes described in that section.

(d) All revenue from fines imposed pursuant to this section for wild turkey violations shall be deposited in the Upland Game Bird Account established in Section 3684 and shall be used for the upland game bird conservation purposes described in that section.

(e) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 13003.

1 The county board of supervisors shall first use revenues pursuant
2 to this subdivision to reimburse the costs incurred by the district
3 attorney or city attorney in investigating and prosecuting the
4 violation. Any excess revenues may be expended in accordance
5 with Section 13103.

6 SEC. 4. Section 12013.5 is added to the Fish and Game Code,
7 to read:

8 12013.5. (a) Any person who uses a signal-emitting device in
9 conjunction with the take of bear for the purpose of selling or
10 trafficking in bear parts shall be subject to a fine of ten-times the
11 market value of the bear parts, or ten thousand dollars (\$10,000),
12 ~~whichever is greater~~ *thousand dollars (\$10,000) per bear part.*
13 For purposes of this section, a “signal-emitting device” means any
14 device capable of generating radio, cellular, satellite, or other signal
15 transmission for purposes of providing communication or location
16 information.

17 (b) The commission shall adopt regulations to implement this
18 section, including, but not limited to, establishing a market value
19 for bear parts.

20 (c) All revenue from fines imposed pursuant to this section shall
21 be deposited in the Big Game Management Account established
22 in Section 3953 and shall be used for the big game management
23 purposes described in that section.

24 (d) Moneys equivalent to 50 percent of the revenue from any
25 fine collected pursuant to this section shall be paid to the county
26 in which the offense was committed, pursuant to Section 13003.
27 The county board of supervisors shall first use revenues pursuant
28 to this subdivision to reimburse the costs incurred by the district
29 attorney or city attorney in investigating and prosecuting the
30 violation. Any excess revenues may be expended in accordance
31 with Section 13103.

32 SEC. 5. Section 12154 of the Fish and Game Code is amended
33 to read:

34 12154. (a) Upon a conviction of a violation of Section 12012,
35 12013, 12013.3, or 12013.5, the department may suspend or
36 permanently revoke a person’s hunting or sport fishing license or
37 permit privileges. Any person whose privileges are suspended or
38 revoked pursuant to this section may appeal the suspension or
39 revocation to the commission. The commission shall initiate the
40 appeal process within 12 months of the violator’s appeal request.

1 The department may adopt regulations to implement this
2 subdivision.

3 (b) Pursuant to subdivision (c) of Section 12157, a judge may
4 order the seizure or forfeiture of any device or apparatus, including
5 a vessel, vehicle, or hunting or fishing gear, that is used in
6 committing an offense punishable under Section 12012, 12013,
7 12013.3, or 12013.5.

8 SEC. 6. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.